

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

|                              |   |                       |
|------------------------------|---|-----------------------|
| _____                        | ) |                       |
| In re:                       | ) |                       |
|                              | ) |                       |
| RISE CONSTRUCTION MANAGEMENT | ) | Chapter 7             |
| INC.,                        | ) | Case No. 23-11942-JEB |
|                              | ) |                       |
| Debtor                       | ) |                       |
| _____                        | ) |                       |

**LIMITED OPPOSITION OF 143 WASHINGTON LLC**

Now comes 143 Washington LLC (“**Washington**”), a party-in-interest and holder of a valid unsecured claim in excess of \$3,000,000 (and growing) based on damages arising out of contract with the above-captioned Debtor for the construction of a 55-unit residential building located at 25 Fidelis Way in Brighton (the “**Project**”), and hereby enters this limited opposition to the *Joint Motion of Petitioning Creditors Electrical Industry Labor Management Cooperation Trust, Electrical Workers' Deferred Income Fund Local 103 IBEW, Electrical Workers' Pension Fund Local 103 IBEW, Local 103 IBEW Health Benefit Plan, and Debtor Rise Construction Management Inc. to Dismiss Case* (ECF No. 3, the “**Motion**”) for the purpose of requesting that the Court defer any ruling on the Motion for at least fourteen (14) days to provide Washington with a meaningful opportunity to determine if there are other similarly situated creditors who would be willing to join the Petition.

In support thereof, Washington further states as follows:

1. Washington was not included on the List of Creditors filed by the Debtor on December 12, 2023 (ECF No. 7, the “**Creditor List**”).
2. Accordingly, Washington was not served with notice of the Motion or the January 9<sup>th</sup> hearing (ECF No. 8).

3. Washington has only just begun to reach out to determine whether there are any other similarly situated creditors that might be interested in joining the Petition.

4. In addition, the Motion itself appears deficient to support dismissal.

5. The Motion provides no disclosure of the specific ‘mutually agreeable’ terms pursuant to which the Debtor and its Petitioning Creditors have agreed to dismissal. Instead, the Motion merely recites that dismissal is in the best interest of the estate (*see* Motion at ¶ 5), without furnishing any support for the Court to reach such a conclusion:

If the dismissal is based on a settlement between the petitioning creditors and the debtor, the court is required to assess whether the settlement is in the best interests of the estate. If the settlement involves something other than a cash payment, a court must determine the effect of the settlement on similarly situated creditors, and if the other creditors are not being treated fairly and equitably, the settlement should not be approved.

2 Collier on Bankruptcy P 303.34 (16th 2023).

6. Moreover, Washington’s claim against the Debtor is, in part, based the Debtor’s acknowledged failure to pay \$3.5M to subcontractors on the Project after Washington had paid the Debtor for such work and materials.

7. Based on the Debtor’s own records, provided to Washington in connection with Project accounting, many of the subcontractors who remain unpaid on the Project have also been omitted from the Creditor List.

8. It’s clear that the disclosures and notices provided in this case to date have been inadequate to support the relief requested in the Motion.

**WHEREFORE**, for the reasons stated above, Washington respectfully requests the Court defer deciding the Motion for at least fourteen (14) days to provide Washington with a meaningful opportunity to determine if there are other similarly situated creditors – including Project subcontractors - who would be willing to join the Petition.

Respectfully submitted,

143 WASHINGTON LLC

By its attorney,

/s/ Rion M. Vaughan

Rion M. Vaughan, Esq. (BBO #689153)

James C. Fox, Esq. (BBO #548664)

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DATE: January 8, 2024

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of January, 2024, a true copy of the above document was served via the CM/ECF electronic notification system on all counsel of record.

143 WASHINGTON LLC

By its attorney,

/s/ Rion M. Vaughan

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